

REPORT OF THE LEGISLATIVE RESEARCH COMMISSION
TO THE 1971 GENERAL ASSEMBLY

LEGISLATIVE RETIREMENT

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1971 General Assembly its findings and recommendations concerning legislative retirement. This report is made pursuant to Senate Joint Resolution 876 of the 1969 General Assembly, which directed the Commission to "study the feasibility of a Retirement Fund for the General Assembly including such considerations as the funding, eligibility, benefits, administration and custodianship of such a Retirement Fund," and to report its findings and recommendations to the 1971 General Assembly.

This report was initiated by a committee of the Legislative Research Commission to which the Commission assigned its study of legislative retirement. The Committee on Legislative Retirement consisted of:

Representative Dwight W. Quinn, Chairman

Senator Fred Folger, Vice Chairman

Senator John J. Burney, Jr.

Senator Ralph H. Scott

Representative Hugh S. Johnson, Jr.

The Legislative Research Commission reviewed the Committee proceedings and adopted this report November 13, 1970.

Respectfully,

Philip P. Godwin, Speaker

Senator N. Hector McGeachy, Jr.

Co-Chairmen, Legislative Research Commission

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I. INTRODUCTION.

On July 1, 1969, the North Carolina General Assembly ratified Senate Joint Resolution 876 directing the Legislative Research Commission to study Legislative Retirement. (See Appendix A.) On July 2, 1969, the General Assembly ratified House Bill 1399 which established a retirement fund for members of the North Carolina General Assembly. (See Appendix B.) This report of the Legislative Research Commission explores the provisions of House Bill 1399 (G.S. 120-4.1), and the provisions of legislative retirement plans of other states. Potential changes in the current North Carolina legislative retirement law have been investigated, and recommendations of the Commission are based on findings growing out of this research.

II. FINDINGS.

A. Present Legislative Retirement in North Carolina.

Within the framework of the direction of S.J.R. 876, North Carolina's Legislative Retirement law can be analyzed as follows:

1. Funding. Costs of the Legislative Retirement System are to be met from funds appropriated to the General Assembly (H.B. 1399, Sec. 3.); there is no contribution by members of the General Assembly.
2. Eligibility. A member may retire at age 65 if he was a member of the General Assembly during the 1969 session or subsequent sessions, and has had four full terms of service; or he may retire if he was age 70 at the time of serving in the 1969 session, and has had three full terms of service. (H.B. 1399, Sec. 6.) If a member who has served three full terms is disabled during a fourth or later term, he may be eligible for disability benefits. (H.B. 1399, Sec. 8.)
3. Benefits. Retiring members and those qualifying for disability benefits receive a monthly retirement allowance of twenty-five dollars (\$25.00) per each full term of service. (H.B. 1399, Sec. 6.) A member who retires after four terms of service will receive \$100.00 per month for life;

if he retires after five terms, \$125.00 per month; etc.

4. Administration. The Legislative Retirement Fund is to be administered by the Board of Trustees of the Teachers' and State Employees' Retirement System. (H.B. 1399, Sec. 1.) The Director of the Teachers' and State Employees' Retirement System shall serve ex officio as Director of the Legislative Retirement Fund. (H.B. 1399, Sec. 2.)
5. Custodianship. The State Treasurer shall be the custodian of the Retirement Fund, (H.B. 1399, Sec. 4.) and he shall serve as investment officer under authority granted by the Board of Trustees.

B. Noncontributory Judicial Retirement in North Carolina.

1. Retirement of Justices and Judges of the Appellate Division of the General Court of Justice.

Retiring Justices and Judges of the Appellate Division receive for life compensation equal to two thirds ($2/3$) of the annual salary of holders of the office from which they retired. (G.S. § 7A-39.1.) There is no provision for contribution by Justices or Judges. (G.S. §§ 7A-39.1 through 7A-39.11.)

2. Retirement of Judges of the Superior Court.

Retiring Judges of the Superior Court receive for life compensation equal to two thirds ($2/3$) of the annual salary of the holders of the office

from which they retired. There is no provision for contribution by Superior Court Judges. (G.S. §§ 7A-50 through 7A-55.)

C. North Carolina Teachers' and State Employees' Retirement System.

1. Director's Salary and Other Expenses Compared With Those Under Legislative Retirement.

The salary of the Director of the Teachers' and State Employees' Retirement System is fixed by the Governor subject to the approval of the Advisory Budget Commission. Compensation of others engaged by the Board of Trustees of the Teachers' and State Employees' Retirement System, and expenses of the Board are paid at such rates and in such amounts as the Board of Trustees shall approve, subject to the approval of the Director of the Budget. (G.S. § 135-6 (g), See Appendix C.)

The Director of the Legislative Retirement Fund receives a salary determined by the Board of Trustees of the Teachers' and State Employees' Retirement System in its sole discretion. (G.S. § 120-4.1 (c)) The Board of Trustees of the Teachers' and State Employees' Retirement System, which administers the Legislative Retirement Fund, has the power to expend funds for legislative retirement in accordance with the provisions of the Legislative

Retirement Fund act. (G.S. § 120-4.1 (d))

2. Contribution By Teachers and State Employees
Contrasted with Lack of Contribution in Legis-
lative and Judicial Retirement.

Members of the Teachers' and State Employees' Retirement System are required to make contribution to the system. (G.S. § 135-8, See Appendix C. for percentage amounts.) There is no provision for contribution in the Legislative Retirement System (G.S. § 120-4.1), and none in the Judicial Retirement System. (G.S. §§ 7A-39.1 through 7A-39.11.)

D. National Trends, and North Carolina Position.

The Council of State Governments surveyed the Legislative Retirement programs of all the States in 1966. As of that time 35 states had some retirement plan for legislators. Since then, six states, including North Carolina, have established Legislative Retirement; no states have abolished their programs. The following table reflects the trend pointing toward Legislative Retirement in all the states:

Table 1.

I. STATES WITHOUT LEGISLATIVE RETIREMENT, PER COUNCIL OF
STATE GOVERNMENTS SURVEY PUBLISHED IN 1967: (15 States)

Alabama
Colorado
Connecticut
Indiana
Iowa
Kansas
Nebraska
New Hampshire
North Carolina
North Dakota
Oregon
South Dakota
Vermont
Virginia
Wyoming

II. STATES WITHOUT LEGISLATIVE RETIREMENT AS OF AUGUST 1970:
(9 States)

Alabama
Connecticut
Iowa
Kansas
New Hampshire
Oregon
Vermont
Virginia
Wyoming

III. CHANGES FROM LIST I. AS OF AUGUST 1970, STATES RECENTLY
ESTABLISHING LEGISLATIVE RETIREMENT: (6 States)

	Year Established	Statutes
Colorado	1967	111-1-28
Indiana	1959	60-1604
Nebraska	1963	84-1317
<u>North Carolina</u>	1969	120-4.1
North Dakota	1959	52-09-20(M)
South Dakota	1967	3-12-20(1)

According to the Council survey, in 1966 all states with legislative retirement except New York required contribution from members of Legislative Retirement systems. However, New York has changed their statute, and now has some provision for contribution. Of the states adding legislative retirement since the Council survey, North Carolina is the only one that does not require contribution. It appears that North Carolina is unique in this position. (The Council of State Governments survey and updating data to August 1970 are contained in Appendices D. and E.)

III. NORTH CAROLINA LEGISLATIVE RETIREMENT; COMMENTS AND REACTIONS BY J. E. MILLER.

(Mr. Miller is Director of the North Carolina Teachers' and State Employees' Retirement System, and ex officio Director of the Legislative Retirement Fund. The following is taken from his presentation to the Legislative Research Commission Committee on Legislative Retirement.)

Retirement compensation for legislators with extended periods of service is deserved and the principle is being recognized and accepted throughout the country.

The non-contributory feature of the North Carolina System is defensible and economical: (a) Age and service studies of the members of the North Carolina General Assembly indicate that very few legislators will qualify for long periods of retirement income. (It is probable, for example, that not more than two or three former members will qualify for retirement benefits during 1971 and that if they do the total annual cost may not exceed \$2,400 to \$3,600.) (b) If the System were contributory, all members who did not qualify for retirement benefits would be entitled to a refund of their contributions with interest, with the net result being that only the few who qualify for

retirement would have contributed to their own retirement. (This practice of refunding contributions to those not qualifying is typical of the State System and most all other public systems.) (c) The clerical and administrative costs of receiving, posting, and finally returning the monthly contributions made by the members of the General Assembly who do not retire might very well exceed the non-refunded contributions remaining in the System. Likewise, the additional expense involved in maintaining separate accounting of legislative contributions and of investing these small amounts should be considered an expense item.

The benefit structure and membership requirements prevailing in the Teachers' and State Employees' Retirement System are not appropriate for legislative service: (a) The State System is designed for career employees who become teachers and State employees in their twenties and continue employment until they reach their sixties. (b) Membership in the State System cannot commence after one has attained age 62 and service beyond age 65 is permitted only upon recommendation of the employer and approval of the System's Board of Trustees. (c) The State System has many features - the death benefit, reduced early retirement, early election of option,

survivor benefits, and optional plans of retirement - which are not generally characteristic of legislative and judicial retirement systems.

With respect to credit for service prior to date of inception, the Legislative Retirement System is similar to the State System. All public retirement systems must have a beginning point and to the extent feasible, most grant credit to qualifying members for service rendered prior to the date of establishment. For example, the State System was established in 1941 and credit for prior service was recognized for "each member who was a teacher or State employee at any time during the five years immediately preceding the establishment . . . and who became a member prior to July 1, 1946." Subsequently, the State appropriated funds to provide special pensions to teachers and State employees who had 20 years of service prior to 1941, who separated from service prior to 1941, and who were 65 years of age or over in 1959. Some provision for service prior to the date of establishment, as a transitional measure, is generally characteristic of public systems. Of course, credits and costs for prior service will ultimately disappear.

If the Legislative System involved enough people and enough money to justify the costs of administration, the contributory feature would be desirable. The relatively small size of the System and small amounts of money involved, however, do not appear to support this consideration.

IV. CONCLUSIONS and RECOMMENDATIONS of the LEGISLATIVE RESEARCH COMMISSION

Conclusions:

1. Lack of contribution in North Carolina Legislative Retirement is unique; but defensible, economical, and desirable.
2. There are differences between the Teachers' and State Employees' system and the Legislative system; there is a requirement of a secondary administrative approval of salary and expense in the Teachers' system, and no such requirement in the Legislative system.
3. Almost all the states have some system of Legislative Retirement and the trend is toward universal acceptance.

Recommendations:

1. Continue to follow the most economic program, the present noncontributory system.
2. Continue the present method of financial control used in Legislative Retirement, which has adequate safeguards and minimum procedural problems.
3. Retain present Legislative Retirement, recognizing the system as deserved in the light of increasing demands of the legislative task and the service to the State provided by the members of the General Assembly.

APPENDICES

NORTH CAROLINA
GENERAL ASSEMBLY
1969 SESSION

Appendix A.

RATIFIED RESOLUTION

RESOLUTION 113

SENATE JOINT RESOLUTION 876

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION
TO STUDY THE FEASIBILITY OF A LEGISLATIVE RETIREMENT FUND.

Be it resolved by the Senate, the House of Representatives
concurring:

Section 1. The Legislative Research Commission is
hereby directed to study the feasibility of a Retirement Fund for
the General Assembly including such considerations as the
funding, eligibility, benefits, administration and custodianship
of such a Retirement Fund.

Sec. 2. The Legislative Research Commission shall
report its findings and any recommendations resulting from this
study to the 1971 General Assembly.

Sec. 3. This Resolution shall become effective upon its
adoption.

In the General Assembly read three times and ratified,
this the 1st day of July, 1969.

H. P. TAYLOR, JR.

H. P. Taylor, Jr.

President of the Senate.

EARL W. VAUGHN

Earl W. Vaughn

Speaker of the House of Representatives.

Appendix B.

NORTH CAROLINA
GENERAL ASSEMBLY
1969 SESSION
RATIFIED BILL

CHAPTER 1269

HOUSE BILL 1399

AN ACT TO FIX THE COMPENSATION AND PROVIDE FOR CERTAIN
LEGISLATIVE EXPENSES OF MEMBERS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina do enact:

Section 1. For the purpose of furthering the general welfare of the State, and in recognition of the public service rendered to the State and its citizens by the members of the General Assembly, there is hereby established a retirement fund to be designated as the "Legislative Retirement Fund", hereinafter referred to as the "Fund". The Fund shall be administered as set forth in this Act. This Fund is established to provide retirement allowances for eligible members of the General Assembly of the State who qualify for such allowances as hereinafter provided.

The Fund shall be administered by the Board of Trustees of the Teachers' and State Employees' Retirement System, hereinafter referred to as the Board.

Sec. 2. There is hereby created an office to be known as Director of the Legislative Retirement Fund. The Director of the Teachers' and State Employees' Retirement System of North Carolina shall serve ex officio as Director of the Fund at such additional salary as may be determined by the Board from time to time in its sole discretion.

Sec. 3. The Board shall have the power and duty to request the allocations necessary to carry out the provisions of this Act, which shall be provided from funds appropriated to the General Assembly, to employ necessary clerical and other assistance as it may require, to determine the acceptability of all applications for retirement allowances, to provide for the payment of allowances hereunder, to make all necessary rules and regulations not inconsistent with law for the government of said Fund, to expend funds in accordance with the provisions of this Act, and generally to exercise all other powers necessary for the administration of the Fund established by this Act.

Sec. 4. The State Treasurer shall be the custodian of the Retirement Fund for Members of the General Assembly of North Carolina. One-fourth of the annual allocation to the Fund shall be transferred quarterly to a special fund to be established in the State Treasurer's Office to be known as the Legislative Retirement Fund. The Board of Trustees shall have authority to manage and invest all monies in the Fund not immediately needed for retirement allowances in the same manner as provided for the Teachers' and State Employees' Retirement Fund. The interest on such investments shall be credited to this Fund. The State Treasurer shall serve as investment officer under authority granted by the Board of Trustees.

Sec. 5. "Member" shall mean any person who is elected at a general election or appointed as a member of the General Assembly and who serves in said General Assembly as a member thereof, as a result of said election or appointment. A "Full term" shall consist of any regular biennial session of the

General Assembly. For the purposes of this Act, credit shall be given only for a full term, and no credit shall be given for any period of service in which the member (i) fails to complete serving the full term or (ii) serves such term or any portion of such term as a result of election thereto in other than a general election: Provided, however, a member who is otherwise eligible and assumes his duties as a member of the General Assembly within one week after the convening of a regular session shall not be barred from credit for a full term.

Sec. 6. Any former member of the General Assembly who has at least four full terms of creditable service and who has attained the age of 65 shall be entitled to receive from the Fund a monthly retirement allowance of twenty-five dollars (\$25.00) per each full term of service. Credit shall be given for each full term of service as an active member commencing with the 1969 term; and credit shall also be given for each full term of service rendered before the 1969 term, as to any member who serves a full term during the 1969 term or any full term subsequent to 1969. Credit shall be given to any member or elected officer serving in the 1969 Session who has attained the age of 70 years and has a total of three terms of creditable service, and the member qualifying shall be entitled to the retirement benefits provided for in this Act. Notwithstanding anything herein to the contrary, no person shall be entitled to receive a retirement allowance hereunder unless his service as a member of the General Assembly or as an employee of the State in another capacity shall have been terminated and he shall have

retired from the service of the State. No survivor benefits shall be payable under this Act.

Sec. 7. Service retirement benefits shall be payable under this Act effective the first day of the month following retirement. Application therefor by an eligible member for such service retirement benefits shall be filed as rules and regulations of the Board may provide.

Sec. 8. If a member who has served not less than three full terms becomes physically disabled during a fourth or later term, and such disability application is approved by the Medical Board of the Teachers' and State Employees' Retirement System, such person shall be entitled to receive disability benefits at the same rate as service retirement benefits, irrespective of age. Application for disability benefits shall be filed as rules and regulations of the Board may provide.

Sec. 9. If a member has commenced to receive service retirement or disability benefits and thereafter serves as a member of the General Assembly, or becomes a teacher or State employee within the definition thereof of the Teachers' and State Employees' Retirement System Act, payment of benefits shall be suspended during the period when such member is being paid a salary as a member of the General Assembly or teacher or State employee.

Sec. 10. There is hereby allocated as of July 1, 1969, and annually thereafter, as an item of joint expense from funds appropriated for the support of the General Assembly, to the Legislative Retirement Fund, such sums as are determined by the Board to be necessary in order (i) to cover the cost of the

allowances provided in this Act, and (ii) to cover any administrative expenses which the Board of Trustees may incur in the operation of the Fund.

Sec. 11. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 12. This Act shall be in full force and effect on and after the first day of the convening of the 1971 Session of the General Assembly.

In the General Assembly read three times and ratified, this the 2nd day of July, 1969.

H. P. TAYLOR, JR.

H. P. Taylor, Jr.

President of the Senate.

EARL W. VAUGHN

Earl W. Vaughn

Speaker of the House of Representatives.

North Carolina General Statutes § 120-4.1
(from House Bill 1399)

§ 120-4.1. **Legislative Retirement Fund.** — (a) For the purpose of furthering the general welfare of the State, and in recognition of the public service rendered to the State and its citizens by the members of the General Assembly, there is hereby established a retirement fund to be designated as the "Legislative Retirement Fund," hereinafter referred to as the "Fund." The Fund shall be administered as set forth in this section. This Fund is established to provide retirement allowances for eligible members of the General Assembly of the State who qualify for such allowances as hereinafter provided.

(b) The Fund shall be administered by the Board of Trustees of the Teachers' and State Employees' Retirement System, hereinafter referred to as the Board.

(c) There is hereby created an office to be known as Director of the Legislative Retirement Fund. The Director of the Teachers' and State Employees' Retirement System of North Carolina shall serve ex officio as Director of the Fund at such additional salary as may be determined by the Board from time to time in its sole discretion.

(d) The Board shall have the power and duty to request the allocations necessary to carry out the provisions of this section, which shall be provided from funds appropriated to the General Assembly, to employ necessary clerical and other assistance as it may require, to determine the acceptability of all applications for retirement allowances, to provide for the payment of allowances hereunder, to make all necessary rules and regulations not inconsistent with law for the government of said Fund, to expend funds in accordance with the provisions of this section, and generally to exercise all other powers necessary for the administration of the Fund established by this section.

(e) The State Treasurer shall be the custodian of the retirement fund for members of the General Assembly of North Carolina. One fourth of the annual allocation to the Fund shall be transferred quarterly to a special fund to be established in the State Treasurer's Office to be known as the Legislative Retirement Fund. The Board of Trustees shall have authority to manage and invest all monies in the Fund not immediately needed for retirement allowances in the same manner as provided for the Teachers' and State Employees' Retirement Fund. The interest on such investments shall be credited to this Fund. The State Treasurer shall serve as investment officer under authority granted by the Board of Trustees.

(f) "Member" shall mean any person who is elected at a general election or appointed as a member of the General Assembly and who serves in said General Assembly as a member thereof, as a result of said election or appointment. A "full term" shall consist of any regular biennial session of the General Assembly. For the purposes of this section, credit shall be given only for a full term, and no credit shall be given for any period of service in which the member (i) fails to complete serving the full term or (ii) serves such term or any portion of such term as a result of election thereto in other than a general election: Provided, however, a member who is otherwise eligible and assumes his duties as a member of the General Assembly within one week after the convening of a regular session shall not be barred from credit for a full term.

(g) Any former member of the General Assembly who has at least four full terms of creditable service and who has attained the age of 65 shall be entitled to receive from the Fund a monthly retirement allowance of twenty-five dollars

(\$25.00) per each full term of service. Credit shall be given for each full term of service as an active member commencing with the 1969 term; and credit shall also be given for each full term of service rendered before the 1969 term, as to any member who serves a full term during the 1969 term or any full term subsequent to 1969. Credit shall be given to any member or elected officer serving in the 1969 session who has attained the age of 70 years and has a total of three terms of creditable service, and the member qualifying shall be entitled to the retirement benefits provided for in this section. Notwithstanding anything herein to the contrary, no person shall be entitled to receive a retirement allowance hereunder unless his service as a member of the General Assembly or as an employee of the State in another capacity shall have been terminated and he shall have retired from the service of the State. No survivor benefits shall be payable under this section.

(h) Service retirement benefits shall be payable under this section effective the first day of the month following retirement. Application therefor by an eligible member for such service retirement benefits shall be filed as rules and regulations of the Board may provide.

(i) If a member who has served not less than three full terms becomes physically disabled during a fourth or later term, and such disability application is approved by the medical board of the Teachers' and State Employees' Retirement System, such person shall be entitled to receive disability benefits at the same rate as service retirement benefits, irrespective of age. Application for disability benefits shall be filed as rules and regulations of the Board may provide.

(j) If a member has commenced to receive service retirement or disability benefits and thereafter serves as a member of the General Assembly, or becomes a teacher or State employee within the definition thereof of the Teachers' and State Employees' Retirement System Act, payment of benefits shall be suspended during the period when such member is being paid a salary as a member of the General Assembly or teacher or State employee.

(k) There is hereby allocated as of July 1, 1969, and annually thereafter, as an item of joint expense from funds appropriated for the support of the General Assembly, to the Legislative Retirement Fund, such sums as are determined by the Board to be necessary in order (i) to cover the cost of the allowances provided in this section, and (ii) to cover any administrative expenses which the Board of Trustees may incur in the operation of the Fund. (1969, c. 1269, ss. 1-10.)

Editor's Note. — Session Laws 1969, c. 1269, s. 12, provides: "This act shall be in full force and effect on and after the first day of the convening of the 1971 session of the General Assembly."

APPENDIX C.

North Carolina General Statutes, Chapter 135, Retirement System for Teachers and State Employees; Provisions from the 1969 Cumulative Supplement.

§ 135-6

GENERAL STATUTES OF NORTH CAROLINA

§ 135-6

§ 135-6. Administration.

(b) Membership of Board; Terms.—The board shall consist of ten members, as follows:

- (1) The State Treasurer, ex officio;
- (2) The Superintendent of Public Instruction, ex officio;
- (3) Eight members to be appointed by the Governor and confirmed by the Senate of North Carolina. One of the appointive members shall be a member of the teaching profession of the State; one of the appointive members shall be an employee of the State Highway Commission, who shall be appointed by the Governor for a term of four years commencing April 1st, 1947 and quadrennially thereafter; one of the appointive members shall be a representative of higher education appointed by the Governor for a term of four years commencing July 1, 1969, and quadrennially thereafter; one of the appointive members shall be a retired teacher or State employee who is drawing a retirement allowance, appointed by the Governor for a term of four years commencing July 1, 1969, and quadrennially thereafter; one to be a general State employee, and three who are not members of the teaching profession or State employees; two to be appointed for a term of two years, two for a term of three years and one for a term of four years. At the expiration of these terms of office the appointment shall be for a term of four years.

(g) Officers and Other Employees; Salaries and Expenses.—The State Treasurer shall be ex officio chairman of the board of trustees. The board of trustees shall, by a majority vote of all the members, appoint a director, who may be, but need not be, one of its members. The salary of the director shall be fixed by the Governor subject to the approval of the Advisory Budget Commission. The board of trustees shall engage such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons, other than the director, engaged by the board of trustees, and all other expenses of the board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the board of trustees shall approve, subject to the approval of the Director of the Budget.

(k) Medical Board.—The board of trustees shall designate a medical board to be composed of not less than three nor more than five physicians not eligible to participate in the Retirement System. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this chapter, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the board of trustees its conclusion and recommendations upon all the matters referred to it.

(o) On the basis of such tables and interest assumption rate as the board of trustees shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the System created by this chapter. (1941, c. 25, s. 6; 1943, c. 719; 1947, c. 259; 1957, c. 541, s. 15; 1965, c. 780, s. 1; 1969, c. 805; c. 1223, s. 17.)

Editor's Note.—

The 1965 amendment, effective July 1, 1965, substituted "director" for "secretary" in the second sentence of subsection (g) and "not less than three nor more than five" for "three" in the first sentence of subsection (k).

The first 1969 amendment, effective July 1, 1969, changed subsection (b) by in-

creasing the membership of the board from eight to ten and the number of appointive members from six to eight and inserting in subdivision (3) the provisions for an appointive member to be a representative of higher education and an appointive member to be a retired teacher or State employee.

The second 1969 amendment, effective

July 1, 1969, inserted "and interest assumption rate" near the beginning of subsection (o).

Session Laws 1969, c. 1223, s. 18½, provides: "Notwithstanding any other provisions of this act, all new or increased benefits provided herein shall be payable subject to the availability of funds as determined by the board of trustees of the Retirement System, and no additional appropriations shall be made by the General Assembly of 1969 or any future session of the General Assembly to provide the above referred to new or increased benefits."

As the rest of the section was not affected by the amendments, it is not set out.

"Secretary of the Board of Trustees" to Mean "Director."—Section 1 of c. 780, Session Laws 1965, provides that reference in any statute to the secretary of the board of trustees of the Teachers' and State Employees' Retirement System shall be deemed to be a reference to the director of such Retirement System. Accordingly, "director" has been substituted for "secretary" in the third and fifth sentences of subsection (g).

§ 135-7. Management of funds.—(a) Management and Investment of Funds.—The board of trustees shall be the trustee of the several funds created by this chapter as provided in G.S. 135-8, and shall have full power to invest and reinvest such funds in any of the following:

- (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;
- (2) Obligations of the Federal Intermediate Credit Banks, Federal Home Loan Banks, Federal National Mortgage Association, Banks for Cooperatives, Federal Land Bank, International Bank for Reconstruction and Development, and Inter-American Development Bank;
- (3) Obligations of the State of North Carolina;
- (4) General obligations of other states of the United States;
- (5) General obligations of cities, counties and special districts in North Carolina;
- (6) Obligations of any corporation within the United States if such obligations bear either of the three highest ratings of at least two nationally recognized rating services; and
- (7) Notes secured by mortgages on real estate located within the State of North Carolina and insured by the Federal Housing Commissioner, or his successor or assigns, or in debentures issued by such Commissioner, which are guaranteed as to principal and interest by the United States or by the Federal Housing Administration, an agency of the United States government, or by some other agency of the United States government.
- (8) Shares of any building and loan association organized under the laws of this State or of any federal savings and loan association having its principal office in this State, to the extent that such investment is insured by the federal government or an agency thereof.

Subject to the limitations set forth above, said trustees shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds.

In order to carry out the duties and exercise the powers imposed and granted by this section, the board of trustees is specifically authorized to retain the services of a reputable investment counseling firm.

(c) Custodian of Funds; Disbursements; Bond of Director.—The State Treasurer shall be the custodian of the several funds. All payments from said funds shall be made by him only upon vouchers signed by two persons designated by the board of trustees. The director of the board of trustees shall furnish said board a surety bond in a company authorized to do business in North Carolina in such an amount as shall be required by the board, the premium to be paid from the expense fund.

(1965; c. 780, s. 1; 1967, c. 720, s. 11; c. 1205.)

Editor's Note.—

The first 1967 amendment, effective July 1, 1967, added the International Bank for Reconstruction and Development and the Inter-American Development Bank to the list of banks in subdivision (2) of subsection (a).

The second 1967 amendment, effective July 1, 1967, added the last paragraph of subsection (a).

"Secretary of the Board of Trustees" to Mean "Director."—Section 1 of c. 780, Ses-

sion Laws 1965, provides that reference in any statute to the secretary of the board of trustees of the Teachers' and State Employees' Retirement System shall be deemed to be a reference to the director of such Retirement System. Accordingly "director" has been substituted for "secretary" in subsection (c).

Only Part of Section Set Out.—Only the subsections affected by the 1965 and 1967 Session Laws are set out.

§ 135-7.2. Authority to invest in certain common and preferred stocks.

(8) That the total value of common and preferred stocks shall not exceed fifteen per centum of the total value of all invested funds of the Retirement System; provided, further:

- a. Not more than one and one-half per centum of the total value of such funds shall be invested in the stock of a single corporation, and provided further;
- b. The total number of shares in a single corporation shall not exceed eight per centum of the issued and outstanding stock of such corporation, and provided further;
- c. As used in this subdivision (8), value shall consist of the par value or unpaid balance of all unmaturing or unpaid investments requiring the payment of a fixed amount at payment date and the cost price of all other investments.

(1965, c. 415, s. 1.)

Editor's Note.—

The 1965 amendment, effective July 1, 1965, substituted "fifteen per centum" for "ten per centum" near the beginning of subdivision (8), deleted former paragraph c of that subdivision providing that not more than 1½% of the total value of such

funds should be invested in stocks during any year, and designated former paragraph d as paragraph c.

As only subdivision (8) was changed by the amendment, the rest of the section is not set out.

§ 135-8. Method of financing.

(b) Annuity Savings Fund.—The annuity savings fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities. Contributions to and payments from the annuity savings fund shall be made as follows:

- (1) Prior to the first day of July, 1947, each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period four per centum (4%) of his actual compensation; and the employer also shall deduct four per centum (4%) of any compensation received by any member for teaching in public schools, or in any of the institutions, agencies or departments of the State from salaries other than the appropriations from the State of North Carolina. On and after such date the rate so deducted shall be five per centum (5%) of actual compensation except that, with respect to each member who is eligible for coverage under the Social Security Act in accordance with the agreement entered into during 1955 in accordance with the provisions of article 2 of chapter 135 of Volume 3B of the General Statutes, as amended, and with respect to members covered under G.S. 135-27, with such coverage retroactive to January 1, 1955, such deduction shall, commencing with the first day of the period of service with respect to which such agreement is

effective, be at the rate of three per centum (3%) of the part of his actual compensation not in excess of the amount taxable to him under the Federal Insurance Contributions Act as from time to time in effect plus five per centum (5%) of the part of his earnable compensation not so taxable; provided that in the case of any member so eligible and receiving compensation from two or more employers such deductions may be adjusted under such rules as the board of trustees may establish so as to be as nearly equivalent as practicable to the deductions which would have been made had the member received all of such compensation from one employer. Notwithstanding the foregoing, the board of trustees may in its discretion cause such portion as it may determine of deductions made between January 1, 1955 and December 1, 1955, to be transferred into the contribution fund established under G.S. 135-24; such amounts so transferred shall in that event be deemed to be taxes contributed by employees as required under article 2, chapter 135 of Volume 34 of the General Statutes as amended, and shall be in lieu of contributions otherwise payable in the same amount as so required.

Notwithstanding the foregoing, effective July 1, 1963, with respect to the period of service commencing on July 1, 1963 and ending December 31, 1965 the rates of such deduction shall be four per centum (4%) of the portion of compensation not in excess of forty-eight hundred dollars (\$4800.00) and six per centum (6%) of the portion of compensation in excess of forty-eight hundred dollars (\$4800.00); and with respect to the period of service commencing January 1, 1966, and ending June 30, 1967, the rate of such deductions shall be four per centum (4%) of the portion of compensation not in excess of fifty-six hundred dollars (\$5600.00) and six per centum (6%) of the portion of compensation in excess of fifty-six hundred dollars (\$5600.00); and with respect to the period of service commencing July 1, 1967, the rate of such deductions shall be five per centum (5%) of the portion of compensation not in excess of fifty-six hundred dollars (\$5600.00) and six per centum (6%) of the portion of compensation in excess of fifty-six hundred dollars (\$5600.00). Such rates shall apply uniformly to all members of the Retirement System, without regard to their coverage under the Social Security Act.

- (2) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this chapter. The employer shall certify to the board of trustees on each and every payroll or in such other manner as the board of trustees may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said annuity savings fund, and shall be credited, together with regular interest thereon to the individual account of the member from whose compensation said deduction was made.

STATE RETIREMENT PLANS FOR
LEGISLATORS

May, 1967

RM-395

Price: \$2.00

The Council of State Governments
1313 East 60th Street
Chicago, Illinois 60637

FOREWORD

Questions are frequently asked concerning basic benefits and related features of state retirement plans for state legislators. To fill the gap on information on this increasingly popular subject, the Council of State Governments surveyed the fifty States during December, 1966. The results are reported in this memorandum.

The Council of State Governments expresses its appreciation to the legislative research and service agency directors whose cooperation made this memorandum possible.

The Council of State Governments
1313 East Sixtieth Street
Chicago, Illinois 60637

May, 1967

STATE RETIREMENT PLANS FOR
LEGISLATORS

Summary

New York in 1921 became the first State to establish a retirement plan for legislators. Ohio followed suit in 1941, as did eight other States in the late forties. Ten more States set up plans during the fifties and fifteen have done so since 1960, including Georgia thus far in 1967.

Thus, thirty-five States now provide legislative retirement plans.

TABLE I

Year Retirement Plan Adopted

Year	State
1921	New York
1941	Ohio
1947	California, Delaware, Illinois, Montana, New Jersey, Pennsylvania
1949	Tennessee, Washington
1951	Hawaii, New York (Alternative to 1921 plan)
1952	Mississippi
1955	Florida, Massachusetts, Nevada*
1956	Louisiana
1957	Arkansas, Michigan, Missouri, Wisconsin
1960	Kentucky, Rhode Island
1961	Utah, West Virginia
1963	Idaho, New Mexico, Oklahoma, Texas
1964	Arizona
1965	Maine, Minnesota
1966	Alaska, Maryland, South Carolina
1967	Georgia

Legislative retirement plans usually operate by simply extending the benefits of the existing state employee retirement system to lawmakers. The vast majority of the retirement plans (26 of 36) are optional (see Table II). New York, however, has both optional and compulsory types. Legislators of that State not wishing to participate in a special optional plan, set up in 1951, automatically came under the original regular plan.

*Nevada in 1967 established a separate legislative retirement system, and repealed the 1955 statute which placed legislators in the state employees' retirement system.

TABLE II

Type of Retirement Plan

Type of Plan	State
States with optional participation plans (26)*	Alaska, California, Delaware, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin
States with compulsory plans (10)**	Arizona, Arkansas, Florida, Georgia, Idaho, Kentucky, Missouri, Nevada, New York, West Virginia

*Total listing is 36 because New York has both optional and compulsory plans and appears in both lists.

There is no compulsory retirement age for legislators, as there generally is for public employees. Indeed, most state retirement systems specifically exempt legislators from mandatory retirement.

However, to be eligible for retirement lawmakers must usually attain a specified minimum age. The most common retirement age requirement is 60. This is the maximum in nine States, while six States permit lawmakers to retire at age 55. In the remaining States there is a range from no specified age (Utah) to age 70 (West Virginia (see Table III)). Several States provide alternate plans permitting legislators to retire at any age, provided additional service year credits have been accumulated.

Seven States have no minimum service year requirements for eligibility. In other States minimum service requirements range from four in California to 30 years in Delaware, Mississippi and Tennessee. The most common minimum service year requirements are 10 years (10 States) and 8 years (9 States). In accumulating service year credits, lawmakers are generally permitted to count all previous public service, legislative or otherwise, provided back payments or contributions are made.

TABLE III

Minimum Retirement Age and Service Year Requirements

Minimum Age	Service Year Requirements	State*
70	10	West Virginia
65	10	Arkansas, Minnesota
65	.6	Missouri
65	5	<u>New Mexico</u>
65	none	<u>Tennessee</u>
62	10	Oklahoma
62	8	<u>Georgia</u>
60	20	<u>Tennessee</u>
60	15	<u>Delaware</u>
60	12	<u>New Mexico</u>
60	10	Florida, Maine, Montana, Rhode Island, Washington
60	8	<u>Georgia</u> , Illinois, Michigan, Nevada, South Carolina, Texas
60	5	Arizona, <u>Ohio</u>
60	4	<u>California</u>
60	none	New Jersey
55	30	Mississippi
55	25	<u>Ohio</u>
55	8	Kentucky, <u>Maryland</u>
55	6	Massachusetts
55	5	<u>Hawaii</u>
55	none	Idaho, <u>New York</u> , Wisconsin
50	20	<u>Louisiana</u>
50	8	Alaska
50	none	Pennsylvania
None	30	<u>Delaware</u> , <u>Tennessee</u>
None	20	<u>California</u> , <u>New York</u>
None	16	<u>Louisiana</u> , <u>Maryland</u>
None	10	<u>Hawaii</u>
None	none	Utah

*States having alternate retirement plans are shown in more than one category and are underlined.

All plans except the two in New York require contributions by legislators. The contributions range from 3 per cent of salary in Idaho to 15 and 20 per cent in Maryland and Rhode Island, respectively. In all States lawmakers may withdraw their own contributions, but not those contributed by the State, when they leave legislative service. In nineteen States, legislators receive interest payments upon withdrawal of their contributions (see Appendix).

Retirement benefits are provided in the form of payments from funds accumulated by deductions from the legislator's salary, a similar contribution by the State, and investment income. The amount of annual retirement payment is usually determined on the basis of such factors as the amount of the accumulated fund, years of service and age of the recipient (see Appendix). Most retirement plans have disability features, and also provide for payments to the surviving spouse.

APPENDIX

STATE RETIREMENT PLANS FOR STATE LEGISLATORS

A Tabulation of Benefits and Related Features*

State Date Law Enacted Administrative Agency	Option- al Par- ticipa- tion	Minimum-----		Contributed by-		Withdrawal of		Retirement Benefits
		Age	Service (Years)	Legis.	State	Funds Upon Discontinuance of Service Leg. Cont.	Int.	
Alaska 1966 Pub. Emp. Ret. Bd.	Yes	50	8	4.5%	Actuarial basis ^a	Yes	Yes ^a	½% average monthly compensation times years of service plus ¾% average monthly compensation in excess of 1/12 of taxable wages under Social Security times years of service.
Arizona 1964 Ariz. St. Ret. Sys. Bd.	No	60	5	3.5%	3.5%	Yes	Yes	Actuarial equivalent of contribution.
Arkansas 1957 St. Emp. Ret. Sys.	No	65	10	4%	4%	Yes	No	\$100 per month (½ biennial salary).
California 1947 St. Emp. Ret. Sys.	Yes	60 ^b	4	4%	Amount as Needed	Yes	Yes ^a	5% final compensation per year up to 15 years of service; plus 3% of salary in excess of \$500 per month per year of service but not to exceed 2/3 of salary at retirement with adjustment of total allowance for cost-of-living changes after retirement.
Delaware 1947 State Treasurer	Yes	60 or None	15 30	5% over \$6,000 not to exceed \$12,000	Amount as needed, not to exceed \$3,000	Yes	No	1/60 highest salary for 60 months of most nearly consecutive service divided by 60; maximum of \$250, minimum of \$150 per month.

State Date Law Enacted Administrative Agency	Option- al Par- ticipa- tion	Minimum----- Age Service (Years)		Contributed by- Legis. State		Withdrawal of Funds Upon Discontinuance of Service Leg. Cont. Int.		Retirement Benefits
Florida 1955 St. & Cty. Officers and Emp. Ret. Sys.	No	60	10	4%	4%	Yes	No	1 1/2% of average final compensation (highest 10 of last 15 years serv- ice; service prior to legislative membership may be elected; 2% per year for service prior to 1957) times the total years of service.
Georgia 1967 Bd. of Tr. Emp. Ret. Sys.	No	62 or 60	8 8 ^c	\$250 per calen- dar year	Actuarial basis	Yes	No	Monthly service retirement allowance which equals \$10.00 times number of years of creditable service.
Hawaii 1951 Bd. of Tr. Emp. Ret. Sys.	Yes	55 or None	5 10	6%	Actuarial basis	Yes	Yes	2% average final compensation with less than 10 years service credit, including legislative service; with 10 or more years service credit, including legislative service, 3.5% average final compensation per year of legislative service.
Idaho 1963 Pub. Emp. Ret. Sys.	No	55	None	3%	9.1%	Yes	Yes ^a	Annual benefit is 1% annual salary not in excess of \$4,800 and 2% of that over \$4,800 plus 1/3 of total member contributions without interest.

State Date Law Enacted Administrative Agency	Option- al Par- ticipa- tion	Minimum----- Age Service (Years		Contributed by- Legis. State		Withdrawal of Funds Upon Discontinuance of Service Leg. Cont. Int.		Retirement Benefits
Illinois 1947 Bd. of Tr. Genl. Assembly Ret. Sys.	Yes	60	8	8%	Actuarial basis	Yes	No	2 1/2% final annual salary per year of eligible service, or 20% for 8 years; maximum 60% for 24 years.
Kentucky 1960 Emp. Ret. Sys.	No	55	8 ^d	4%	7%	Yes	Yes ^a	1.47% final compensation times years of service.
Louisiana 1956 St. Emp. Ret. Sys.	Yes	50 or None	20 ^e 16	9%	Actuarial basis	Yes	Yes	3% average compensation for any 60 consecutive months of highest earned compensation times total years of service plus \$300; maximum 100% 5 highest years of compensation.
Maine 1965 Bd. of Tr., Me. St. Ret. Sys.	Yes	60	10	5.75%	Actuarial basis	Yes	Yes ^a	1/70 average final compensation per year of service.
Maryland 1966 St. Emp. Ret. Sys.	Yes	55 or None	8 16	15%	Amount as needed	Yes	Yes	1/20 final allowable earned compensation times years of service (not to exceed 20).

State Date Law Enacted Administrative Agency	Option- al Par- ticipa- tion	Minimum----- Age	Service (Years)	Contributed by-		Withdrawal of Funds Upon Discontinuance of Service		Retirement Benefits
				Legis.	State	Leg. Cont.	Int.	
Massachusetts 1955 St. Emp. Ret. Sys.	Yes	55	6 .	5%	Actuarial basis	Yes	Yes	Average annual compensation for 5 highest consecutive years of credit- able service or average annual com- pensation for last 5 years of serv- ice whether consecutive or not whichever is greater times years of creditable service times a per- centage related to age at retirement ranging from 1.5% at age 55 to 2.5% at age 65 and over.
Michigan 1957 Bd. Tr. of the Leg. Ret. Sys.	Yes	60 ^f	8	7%	Amount as needed	Yes	No	26% of final salary, 3% added for each year of service over 8 years up to 16 years (providing maximum of 50% of salary).
Minnesota 1965 St. Emp. Ret. Assoc., Ret. Bd.	Yes	65	10	7%	Amount as needed	Yes	No	\$100 per month plus \$4 for every year of service in excess of 10 years, maximum \$200.
Mississippi 1952 Emp. Ret. Sys.	Yes	55	30	4.5% of month- ly sal- ary less \$100	3%	Yes	Yes	1 1/2% average salary for 5 highest years times years of service less \$1,200.

State Date Law Enacted Administrative Agency	Option- al Par- ticipa- tion	Minimum-----		Contributed by-		Withdrawal of Funds Upon Discontinuance of Service		Retirement Benefits
		Age	Service (Years)	Legis.	State	Leg. Cont.	Int.	
Missouri 1957 Bd. of Tr. Mo. St. Emp. Ret. Sys.	No	65	6	4%	4%	Yes	Yes	\$25 per month times biennia served; maximum \$3,200 per year.
Montana 1947 Bd. of Adm. Pub. Emp. Ret. Sys.	Yes	60	10	3-8.2%; 3.3% women: 3.5- 9.6%		Yes	No	Actuarial equivalent of contributions since 7/1/45; % average salary last 3 years before 1945 (age 65, 35 years service -- 50% final salary).
Nevada 1967 ⁸ Pub. Emp. Ret. Bd.	No	60	8	10%	10%	Yes	No	\$160 base monthly retirement allowance with 8 years of service. For each additional year of service, the base monthly allowance increases \$20, to a maximum of \$500 for 25 or more years of service.
New Jersey 1947 Bd. of Tr.	Yes	60	None	4.85- 8.45% women: 5.18- 9.51%	Actuarial basis	Yes	Yes	1/60 average annual salary per year of service; after 25 years retirement as actuarial year 60.
New Mexico 1963 Pub. Emp. Ret. Bd.	Yes	60 or 65	12 5	\$100 per year	Amount as needed	Yes	No	\$40 for each year of service prior to Jan. 1, 1961; \$125 for each year of service thereafter.

State Date Law Enacted Administrative Agency	Option- al Par- ticipa- tion	Minimum----- Age Service (Years)		Contributed by- Legis. State		Withdrawal of Funds Upon Discontinuance of Service Leg. Cont. Int.		Retirement Benefits
New York 1921 (reg. plan)	No ^h	55	None	No	Actuarial	Yes	Yes	1/60 of average salary per year of service of 1/40 of average salary per year of service.
1951 (spec. plan) Emp. Ret. Sys.	Yes	None ^{or}	20		basis			
Ohio 1941	Yes	60	5	7%	Actuarial	Yes	No	1.75% of average of five highest years of compensation times number of years of service.
Pub. Emp. Sys.		55 ^{or}	25		basis			
Oklahoma 1963 Okla. Pub. Emp. Ret. Sys., Bd. of Tr.	Yes	62	10	3% first \$375/ month; 4% on month- ly comp. over that amt. to \$550	Actuarial	Yes	No	1 1/4% final average salary times years of participating service.
Pennsylvania 1947 St. Emp. Ret. Ed.	Yes	50	None	Actuarial	basis	Yes	No	Consists of combined member's annuity and state annuity equal to 3 3/4/100 of final average salary for each year of creditable service.

State Date Law Enacted Administrative Agency	Option- al Par- ticipa- tion	Minimum----- Age Service (Years)		Contributed by- Legis. State		Withdrawal of Funds Upon Discontinuance of Service Leg. Cont. Int.		Retirement Benefits
Rhode Island 1960 St. Ret. Bd.	Yes	60	10	20%	5%	Yes	No	\$1,500 annually plus \$150 for each year of service in excess of 10 years; maximum of \$3,000 annually.
South Carolina 1966 Budget & Control Bd.	Yes	60	8	\$192 per year	Actuarial basis	Yes	No	\$5 per month times number of years of service or certain reduced option plans.
Tennessee 1949 St. Ret. Bd.	Yes	65	None	3% of portion of salary covered by Social Security and 5% of the amount above	Actuarial basis ^a	Yes	Yes ^j	1% average earnings for 10 highest years up to \$4,200 plus 1 3/4% average earnings for 10 highest years over \$4,200, times years of creditable service; maximum of 75% average salary for 5 highest years during the 15 years preceding retirement.
Tennessee Class B		60 or None	20 30	7%	Actuarial basis	Yes	Yes ^j	(Members not covered by Social Security) 1 5/8% average earnings for 5 highest years times number of years of creditable service; maximum of 75% average salary for 5 highest years.

State Date Law Enacted Administrative Agency	Option- al Par- ticipa- tion	Minimum----- Age Service (Years)		Contributed by- Legis. State		Withdrawal of Funds Upon Discontinuance of Service Leg. Cont. Int.		Retirement Benefits
Texas 1963 Emp. Ret. Sys.	Yes	60	8	5%	5%	Yes	Yes	\$100 per month plus \$10 for each year of service in excess of 10 years.
Utah 1961 Pub. Emp. Ret. Sys.	Yes	None	None	4%	4%	Yes	Yes	\$5 per month per year of service.
Washington 1949 Ret. Bd.	Yes	60	10	5%	6%	Yes	Yes	Actuarial equivalent of members con- tributions plus 1/120 average an- nual salary of 5 consecutive years times number of years of service plus \$100 per year.
West Virginia 1961 Bd. of Tr., Emp. Ret. Sys.	No	70	10	3.5%	6%	Yes	No	1% final average salary times total years worked, divided by twelve for monthly annuity.
Wisconsin 1957 Wisc. Ret. Fund	Yes	55	None	5% on first \$6,600; 7% there- after	Actuarial basis ^a	Yes	Yes	1 1/5% average monthly salary for 5 highest years during last 10 years of service ^k ; plus 3/5% average monthly salary in excess of that subject to OASDI contributions or 3/5% salary in excess of \$550 per month whichever is greater; times years of service.

SOURCE: Replies from questionnaires sent to all states, and American State Legislatures, Belle Zeller, ed. (New York: Thomas Y. Crowell, Company, 1954) pp. 262-263. Privilege of using copyrighted materials is gratefully acknowledged.

* LEGEND OF ABBREVIATIONS: Bd.--Board Cty.--County Emp.--Employee
Genl.--General Int.--Interest Legis.--Legislator Leg. Cont.--
Legislator's Contribution Pub.--Public Ret.--Retirement St.--
State Sys.--System Tr.--Trustees

FOOTNOTES:

- a Alaska: state contribution currently 7.0%; interest currently 3.5%. California: currently 4.25%; amount reviewed quadrennially. Idaho: currently 4.0%. Kentucky: currently 3.0%. Maine: 0.75% of accumulated interest. Tennessee: currently 3.14%. Wisconsin: currently 6.53%.
- b Any age for legislators from reapportioned district and with at least four years of service.
- c Benefits paid to legislators retiring under alternate plan are reduced 5% for each year below age 62.
- d Continuous service.
- e Must include at least 12 legislative years of service.
- f Or age 55 with reduced benefits of 1/3% per month for each month less than age 60.
- g This plan is for legislators only, and supercedes 1955 plan which included legislators under state employee retirement system.
- h Compulsory for legislators not participating in the special plan.
- i The vested benefit for members of the special plan who have completed more than 10 years is equal to 1/80 of final average salary for each year of service plus an annuity purchased with the member's contributions during this period.
- j After five years of service.
- k In lieu of 5-year average salary, may use the statutory salary payable at time of last employment as a legislator.

CHANGES AND ADDITIONS, AS OF AUGUST 1970,
FOR THE COUNCIL OF STATE GOVERNMENTS SURVEY OF
STATE RETIREMENT PLANS FOR LEGISLATORS
PUBLISHED IN 1967

*New entry, State's Retirement Plan NOT included in the 1967 Council of State Governments survey.

ALABAMA
55 §458

No retirement system for Legislators.

ALASKA
39.35.680

Minimum age requirement: 65
Legislative contribution: $3\frac{1}{2}\%$ + social security
State contribution: actuarial basis

Benefits: 1% of average monthly compensation for each year credited service, plus $\frac{1}{4}\%$ for each year in excess of 10, plus $\frac{1}{4}\%$ more for each year in excess of 20.

ARIZONA
38-745

Minimum age requirement: 65
Legislative contribution: 5%
State contribution: 5%

ARKANSAS
§12-2501 E(a)

Minimum age requirement: 65 for 10 years service
60 for 18 years service
50 for 20 years service
Legislative contribution: 5%
State contribution: 7%

Benefits: $1\frac{1}{4}\%$ of first \$6,000.00 (first \$6,600.00 or \$7,800.00 for later years) of average compensation, times years current service; $\frac{1}{4}\%$ of first \$6,000.00 average compensation, times years prior service credit, plus additional $\frac{1}{2}\%$ in limited situations.

CALIFORNIA
Gov. 9350

No significant changes discovered.

* COLORADO
111-1-28

Established 1967
Optional participation
Minimum age requirement: 60 for 20 years service
55 for 30 years service
no age requirement for
35 years service
Legislative contribution: 5%
State contribution: $3\frac{1}{2}\%$ & 5%, from different
sources

Benefits: Retirement after age 60, annuity equal to 50% of average of highest monthly salary during any period of 5 consecutive years of service occurring in 10 years immediately preceding retirement; if retire before age 60 amount over \$300.00 reduced by $\frac{1}{2}\%$ of annuity times number of months until member reaches age 60. (5 years service, age 65, $\frac{1}{20}$ of 50% of average highest salary times number of years service up to 20.)

CONNECTICUT
§5-160

Members of General Assembly not included in retirement.

DELAWARE
29 §5501

No significant changes discovered.

FLORIDA
122.02

Minimum age requirement: 62
Legislative contribution: 6%

Benefits: 2% of average final compensation for each year.

GEORGIA
47.1401

No significant changes discovered.

HAWAII
§88-42

Legislative contribution: $6\frac{1}{2}\%$

Benefits: For each year of credited service $3\frac{1}{2}\%$ of average final compensation; plus actuarial equivalent of accumulated contributions; plus, if 55, $\frac{1}{50}$ of average final compensation times years credited service. (Maximum of 75% average final compensation.)

SPECIAL PROVISION:

§88-73(3) "Any member of the Legislature who attains age sixty-five may retire and receive a service retirement allowance although he continues to fill his elected position."

IDAHO
59.1302(14)(A)(b)

Legislative contribution: 3% of first \$400.00,
6% rest
State contribution: actuarial basis

ILLINOIS
108½ §2-101

Legislative contribution: 9½%

Benefits: 20%, plus 3½% for each year of credit
in excess of 8, of salary at retirement. (70%
of salary maximum.)

*INDIANA
60-1604

Established 1959
Optional participation
Minimum age requirement: 65 for 15 years service
Legislative contribution: 3%
State contribution: actuarial amount
Contributions refunded with interest on separation.

Benefits: Actuarial equivalent of contributions;
plus 1% of average compensation for each year of
service, not to exceed 15; plus varied % prior
service pension.

IOWA
97B.41(b)

Members of General Assembly not included in
retirement.

KANSAS
74-4902(14)

Legislators excluded from retirement coverage.

KENTUCKY
65.525(5)

Benefits: 1½% of final compensation times years
service credit. Normal retirement allowance for
each year of service in General Assembly not
less than \$100.00.

LOUISIANA
42:555

No significant changes discovered.

MAINE
5 §1001

Minimum age requirement: 60 for 10 years service
or 5 full terms in
Legislature
Legislative contribution: 6.14%

Benefits: 1/60 average final compensation per
year of membership service, plus 1/50 average
final compensation per year of prior service.

MARYLAND
73B §3

Benefits: Actuarial equivalent of contributions;
plus 1/120 average final compensation times
years service; plus 1/60 average final compensa-
tion times years prior service credit.

MASSACHUSETTS
32 §3

No significant changes discovered.

MICHIGAN
38.1001

Minimum age requirement: 60 for 8 years service
or elected for 4 full
or partial terms

Legislative contribution: 2%.
State contribution: Actuarial basis

MINNESOTA
3A.01

Minimum age requirement: 65 for 8 years service

Benefits: Life annuity of 40% of average monthly
salary since 1965; plus 2% of average monthly
salary for each year of service over 8.
(See Attached Copy of Statute as to Retroactive
Application)

MISSISSIPPI
7446-13

Minimum age requirement: 55 for 30 years service
60 for 10 years service
State contribution: 4½%

Benefits: Actuarial equivalent of contributions;
plus annuity of 1½% of average compensation for
each year of membership service and each year of
prior service.

MISSOURI
104.685

Minimum age requirement: 55 for 6 years service
or in any event with 20
years service

Legislative contribution: 8%
State contribution: amount as needed

Benefits: 4% of annual compensation (5% if 20 years
service) at retirement date times the number of
years of creditable service (20 year maximum).

MONTANA
68-203

Minimum age requirement: 55 for 10 years service
Legislative contribution: 5.75%

Benefits: additional % pensions

*NEBRASKA
84-1317

Established in 1963
Minimum age requirement: 60 for 30 years service
or at 65 in any event
Legislative contribution: 3% on first \$144.00,
6% on rest
State contribution: 104% of legislative contri-
bution from State, plus 104% of legislative contri-
butions from employer budget.
Contributions refunded with interest on separation

Benefits: Actuarial equivalent of contributions.

NEVADA
218.2371

No significant changes discovered.

NEW HAMPSHIRE
100:1 (IV)

Legislators (Members of the General Court) not
included in retirement plan.

NEW JERSEY
43:5-1

No significant changes discovered.

NEW MEXICO
5-5-6.1

No significant changes discovered.

NEW YORK
State Employee's
Retirement System
§80

Legislative contribution in actuarial amounts
for special plan. (See attached copy of statutes.)

*NORTH CAROLINA
120-4.1

Established in 1969
Minimum age requirement: (Member of 1969 Session;
with 4 terms service, or
70 years old with 3 terms
service.)

NO LEGISLATIVE CONTRIBUTION

State contribution: Amount as needed

Benefits: \$25.00 per month for each term of service

*NORTH DAKOTA
52-09-20(M)

Established in 1959
Participation compulsory
Minimum age requirement: 65 for 10 years service
Legislative contribution: changing %
State contribution: 1%
Contributions withdrawn without interest on separation

Benefits: $\frac{1}{2}$ average monthly salary up to \$75.00;
plus 15% of excess up to \$250.00; plus 1% of the
first two amounts times the number of years when
member made \$200.00 or more.

OHIO
145.20

No significant changes discovered.

OKLAHOMA
74 §901

Legislative contribution: member's contribution
not to exceed \$650.00

Benefits: additional prior service credit of
\$60.00 per year.

OREGON
237.129(4)

Assume continuation of exclusion of Legislators
from retirement system.

PENNSYLVANIA
71 §1711

No significant changes discovered.

*(PUERTO RICO)
T. 3 §763

Established in 1951
Participation compulsory
Minimum age requirement: 55 for 25 years service
58 for 10 years service
Legislative contribution: $6\frac{1}{2}\%$
State contribution: equal amount
Contributions refunded with interest on separation

Benefits: $1\frac{1}{2}\%$ of average compensation times number
of years creditable service up to 20; plus 2% of
average compensation times number of years creditable
service in excess of 20. If less than \$1,500.00,
then up to \$180.00 added, \$1,500.00 maximum.
(Minimum annuity of 30% average compensation.)

RHODE ISLAND
36-9-6

Minimum years service: 8
Legislative contribution: 30%
State contribution: actuarial amount

Benefits: \$1,600.00 per year; plus \$200.00 per year for each year's service in excess of 8; maximum of \$4,000.00.

SOUTH CAROLINA
61-34.1

Legislative contribution: 4%
Interest allowed on returned contribution when withdrawn from system.

Benefits: Actuarial equivalent of accumulated contributions; plus ...

*SOUTH DAKOTA
3-12-20(1)

Retirement for Legislators as of 1967
Optional participation
Minimum age requirement: 70 for 10 years service
65 for 15 years service
55 for 20 years service
Legislative contribution: 3 1/2% of first \$6,000.00.
State contribution: equal amount
Allows withdrawal of contribution, with interest, on discontinuance of service.

Benefits: Actuarial equivalent as determined by Board.

TENNESSEE
8-3401(e)

No significant changes discovered.

TEXAS
6228a §3B(3)

Benefits: \$150.00 per month; plus 5% of monthly salary for each year's service over 8.

UTAH
49-10-6

Minimum age requirement: 65 with 4 years service
62 with 10 years service
60 with 20 years service
55 with 30 years service
Legislative contribution: 4 1/4% now
5% in 1975
State contribution: equal amount

Benefits: Retirement at age 65, 1% of final average monthly salary, limited to \$500.00, times years credited service prior to 1967; plus 1% final average monthly salary times years credited service after 1967 (1975, 1 1/2%). Retirement before age 65, reduction by present value factor. Also, for

Legislators with minimum of 4 years service,
minimum of \$10.00 per month per year of service.

VERMONT
3 §371

Retirement not include Legislators.

*(VIRGIN ISLANDS)
3 §705

Established, 1936
Optional participation
Minimum age requirement: 50 for 10 years service
Legislative contribution: 4%
State contribution: 4% to 7.63%
Withdrawal of funds allowed on discontinuance
of service, with interest.

Benefits: \$1,857.00 per year; plus 1/120 per
month for over 10 years.

VIRGINIA
51-111.10(5)

Legislators not covered by retirement.

WASHINGTON
41.40.010

Minimum years service: 6 months
State contribution: 6% maximum

Benefits: Actuarial equivalent of members
contribution; plus \$100.00 per year. Member-
ship service pension of 1/100 of average
final compensation for each year of credited
service (including fractions of years).
Prior service pension of 1/70 of average final
compensation, with 30 year limit.

WEST VIRGINIA
§5-10-2(6)

Participation optional
Minimum age requirement: 60 for 5 years service
Legislative contribution: 3½% to 4½%
State contribution: actuarial basis
Interest on withdrawn contributions after 5 years
service

Benefits: 1½% of final average salary times years
credited service.

WISCONSIN
66.901(4)(k)

Legislative contribution: 5½% on first \$6,000.00
7% on excess

WYOMING
WS §9-295(3)

Legislators not included in retirement.

I. STATES WITHOUT LEGISLATIVE RETIREMENT, PER COUNCIL OF
STATE GOVERNMENTS SURVEY PUBLISHED IN 1967: (15 States)

Alabama
Colorado
Connecticut
Indiana
Iowa
Kansas
Nebraska
New Hampshire
North Carolina
North Dakota
Oregon
South Dakota
Vermont
Virginia
Wyoming

II. STATES WITHOUT LEGISLATIVE RETIREMENT AS OF AUGUST 1970:
(9 States)

Alabama
Connecticut
Iowa
Kansas
New Hampshire
Oregon
Vermont
Virginia
Wyoming

III. CHANGES FROM LIST I. AS OF AUGUST 1970, STATES RECENTLY
ESTABLISHING LEGISLATIVE RETIREMENT: (6 States)

	Year Established	Statutes
Colorado	1967	111-1-28
Indiana	1959	60-1604
Nebraska	1963	84-1317
North Carolina	1969	120-4.1
North Dakota	1959	52-09-20(M)
South Dakota	1967	3-12-20(1)

STATE EMPLOYEES' RETIREMENT SYSTEM
TITLE 9—SPECIAL RETIREMENT PLANS APPLICABLE
TO SPECIFIED CLASSES OF MEMBERS

§ 80. Retirement of members of the legislature

a. As used in this section the term "service as a member of the legislature" shall mean service as a senator or assemblyman in the legislature of the state of New York.

b. Any member of the legislature may elect to contribute to the retirement system on the basis of retirement upon his completion of twenty years of service as a member of the legislature on an allowance of one-fortieth of his final average salary for each year of service as a member of the legislature not in excess of twenty years. Such election shall be in writing and shall be duly executed and filed with the comptroller.

c. A member of the legislature who elects to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, a sum which together with contributions previously made will provide an annuity equal to one-eightieth of his final average salary for each year of service as a member of the legislature rendered prior to the time when he shall first become eligible for retirement in accordance with this section. Such member shall discontinue contributions upon completion of twenty years of service as a member of the legislature.

d. A member contributing on the basis of this section shall be entitled to retire after the completion of twenty years of service as a member of the legislature, by filing an application therefor in a manner similar to that provided in section seventy of this article. He thereupon shall receive on retirement a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension equal to one-quarter of his final average salary.

e. The increased pensions to any member as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the retirement system shall compute the additional contribution for each member who elects the special benefits provided under this section. Such additional contribution shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions, and upon approval by the comptroller, the additional contributions shall be certified by the comptroller and shall be included in the annual appropriation to the pension accumulation fund of the retirement system in the manner provided in section sixteen of this article.

f. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

RETIREMENT AND SOC. SEC. LAW

§ 80

TITLE 9—SPECIAL RETIREMENT PLANS APPLICABLE TO
SPECIFIED CLASSES OF MEMBERS

Sec.

- 80-a. Legislative and executive retirement plan; new plan [New].
- 81-a. Repealed.
- 83-a. Repealed.
- 84-a. Repealed.
- 84-a. Retirement of members of the police department of the city of
Glen Cove, after twenty years of service [New].
- 84-b. Renumbered 384-c.
- 84-d. Repealed.
- 85-a. Repealed.
- 86. Repealed.
- 87. Retirement of members in the Suffolk county police force [New].
- 87-a. Renumbered 387-a.
- 88. Repealed.
- 89. Retirement of members in the uniformed personnel in institutions
under the jurisdiction of the department of correction; new plan
[New].
- 89-a. Optional retirement of sheriffs, under-sheriffs and regular dep-
uty sheriffs [New].
- 89-b. Retirement of members in New York state thruway authority
service [New].

§ 80. Retirement of members of the legislature

c. A member of the legislature who elects to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, a sum which together with contributions previously made will provide an annuity equal to one-eightieth of his final average salary for each year of service as a member of the legislature rendered prior to the time when he shall first become eligible for retirement in accordance with this section. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however, that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. Such member may discontinue contributions upon completion of twenty years of service as a member of the legislature. At the time of his retirement, such member may elect to make sufficient additional contributions required to provide a retirement allowance of one-half of his final average salary.

d. A member contributing on the basis of this section shall be entitled to retire after the completion of twenty years of service as a member of the legislature, by filing an application therefor in a manner similar to that provided in section seventy of this article. He thereupon shall receive on retirement a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus
2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any,
3. A pension equal to one-quarter of his final average salary.

f. One year or more after the filing thereof, a member may withdraw his election to contribute pursuant to this section on the basis of retirement upon completion of twenty years of service as a member of the legislature. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller. Such member thereafter shall contribute on the basis of his rate of normal contribution. Such member, upon application at any time prior to retirement and with the approval of the comptroller, shall be entitled to a refund of the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution.

g. On and after April first, nineteen hundred sixty-eight, no election may be made to contribute under this section.

h. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary. As amended L.1960, c. 336, § 22; L.1965, c. 809; L.1966, c. 333; L.1968, c. 219, § 1, eff. April 11, 1968, retroactive to April 1, 1968.

Subd. c amended by L.1960, c. 336, § 22, eff. March 31, 1960; L.1965, c. 809, eff. July 15, 1965. L.1960 inserted sentences beginning "Such member's rate" and "One year or more". L.1965 substituted "may" for "shall" in sentence beginning "Such member may" and added sentence beginning "At the time".

Subd. d amended by L.1960, c. 336, § 22, eff. March 31, 1960. L.1960 inserted a new subpar. 2 and redesignated former subpar. 2 as 3.

Subd. f added L.1968, c. 333, eff. May 10, 1968. Former subd. f was relettered g.

Subd. g added L.1968, c. 219, § 1, eff. April 11, 1968, retroactive to April 1, 1968. Former subd. g relettered h.

Subd. h. formerly f, relettered g. L.1966, c. 333, eff. May 10, 1966, relettered h, L.1968, c. 219, § 1, eff. April 11, 1968, retroactive to April 1, 1968.

Retroactive effect of L.1968, c. 219. See note under section 80-a.

Library references

States ~~C~~64.1(3,4).
C.J.S. States § 94.

§ 80-a. Legislative and executive retirement plan; new plan

a. As used in this section the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "Legislative and executive member". A person who is lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature, and elects to come under the provisions of this section.

2. "Annual employee". A person employed by the legislature on an annual payroll for not less than twenty-six weeks in any calendar year (exclusive of employees of joint legislative committees or temporary commissions).

3. "Session employee". A person employed by the legislature on a session payroll during the entire period of a regular session of the legislature.

4. "Final average salary". The average yearly and/or annual compensation earned during any three consecutive years of creditable service, as selected by such member at the time of retirement.

5. "Yearly compensation". The total salary or wages and statutory allowance paid in any calendar year for creditable service to the lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature for any purpose, and/or while a delegate, officer or employee of the conventions to revise and amend the constitution of the state in the years nineteen hundred thirty-eight or nineteen hundred sixty-seven, or both.

6. "Annual compensation". The total salary or wages paid in any calendar year to a person for any creditable service under this section,

RETIREMENT AND SOC. SEC. LAW

other than service as lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature.

7. "Creditable service". Regardless of whether rendered before or after the effective date of this section, service rendered as lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature, and service rendered to the state, any political subdivision thereof or a public benefit corporation for which credit is granted under the provisions of this or any other section of this chapter, and military service. A senator or an assemblyman or a session employee who serves during an entire regular legislative session, and an annual employee who serves not less than twenty-six weeks during any calendar year shall be credited with service for the entire year.

8. "Military service". (a) Prior military service as defined in paragraphs d and e of subdivision twenty-four of section two of this chapter; and

(b) Service in war after world war I as defined in subdivisions twenty-nine, twenty-nine-a, thirty, and thirty-one of section two of this chapter; and

(c) In the case of a senator or assemblyman, service, not in excess of three years and not otherwise creditable under subparagraph (b) of this paragraph eight, rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, by a person who was a resident of the state at the time of entry into service and at the time of being discharged therefrom under honorable circumstances.

9. "Service fraction". The fraction by which a member's final average salary times his years of service is multiplied to determine such member's pension.

b. Any person who is lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature may elect to come under the provisions of this section by filing an application therefor with the comptroller on or before April first, nineteen hundred sixty-nine or within one year after he last becomes lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature, whichever is later. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller.

c. 1. A legislative and executive member who, while a member of this retirement system under the provisions of any other section of this chapter, elected, prior to August nineteenth, nineteen hundred sixty-seven, to contribute at a rate of contribution determined in accordance with the provisions of such section, shall continue to contribute at such rate until such election is withdrawn as provided in subdivision e of section seventy-five-a of this chapter.

2. No contribution may be made by a legislative and executive member under the provisions of this section who:

(a) becomes a member of the retirement system on and after April first, nineteen hundred sixty-eight; or

(b) was a non-contributory member of the retirement system at the time he elects to come under the provisions of this section.

3. In addition, every person who was a member of this retirement system prior to August nineteenth, nineteen hundred sixty-six may elect or may continue to make contributions pursuant to subdivision i of section twenty-one of this chapter.

d. 1. A legislative and executive member who does not withdraw his contributions made prior to April first, nineteen hundred sixty, shall

§ 80-a RETIREMENT AND SOC. SEC. LAW

be entitled to retire, subject to the provisions of subdivision h of this section, upon his:

- (a) Completion of twenty years of service as a state senator or assemblyman, which may include service credited under subparagraph (c) of paragraph eight of subdivision a of this section, or
- (b) Completion of at least five years of service as a legislative and executive member, and
- (c) Completion of at least five additional years of creditable service, and
- (d) Attainment of age fifty-five,

by filing an application therefor in a manner similar to that provided in section seventy of this article.

2. (a) Upon completion of such service and upon retirement, each such legislative and executive member shall receive a pension for creditable service prior to April first, nineteen hundred sixty which, together with an annuity, if any, which shall be the actuarial equivalent of his accumulated normal contributions attributable to the period prior to April first, nineteen hundred sixty, and accumulated contributions paid to receive credit for military service as defined in subparagraph c of paragraph eight of subdivision a of this section, shall be sufficient to provide him with a retirement allowance equal to one-fortieth of his final average salary for each year of such service.

For the purpose only of determining the amount of such pension provided for in this subparagraph (a), the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of other than normal contributions, and if it were not reduced by reason of the legislative and executive member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old age and survivors insurance coverage.

(b) In addition, each such legislative and executive member shall receive: (1) An additional annuity which shall be the actuarial equivalent of his accumulated contributions other than those required pursuant to subparagraph (a) of paragraph two of this subdivision or made on and after April first, nineteen hundred sixty to this retirement system, or to a local pension system in the case of a member who transfers his membership to this retirement system on and after such date pursuant to section forty-three of this chapter; and

(2) An additional pension of one-fortieth of such member's final average salary for each year of creditable service after April first, nineteen hundred sixty.

3. In no event shall the sum total of the pensions payable under this section to any member exceed seventy-five per cent of such member's final average salary.

e. Any legislative and executive member who was a member of this retirement system pursuant to the provisions of any other section of this chapter, and/or who was a member of a local pension system and who receives or received service credit therefor in this retirement system pursuant to section forty-three of this chapter, and/or who renders or rendered military service, shall receive full credit under this section for such service. In addition to credit for military service previously granted or subsequently granted pursuant to other provisions of this chapter, credit for military service as defined in subparagraph (c) of paragraph eight of subdivision a of this section shall be granted upon payment by the member of both the amount of contributions which such member would have been required to pay into the annuity savings fund and the amount which the state would have been required to pay into the pension accumulation fund if such service had been legislative service pursuant to section eighty of this chapter. No credit shall be allowed for military service if, but for the member's failure to avail himself of the

RETIREMENT AND SOC. SEC. LAW § 80-a

privilege of transfer within the time and in the manner provided in section forty-three of this article, credit for such service could have been obtained upon transfer from another retirement system pursuant to such section, nor shall such credit for military service as defined in subparagraph (c) of paragraph eight of subdivision a of this section be allowed if application for such credit is made later than one year after first becoming a member of the legislative and executive plan set forth in this section. Such contributions shall be paid in a lump sum or in such installments as the comptroller shall approve, and shall be reduced by the amount of applicable contributions, if any, made or transferred to this retirement system under any section of this chapter for such service.

f. 1. A legislative and executive member who discontinues service other than by death or retirement after March thirty-first, nineteen hundred sixty-eight and who has received credit for service on the basis of the plan contained in this section for at least ten years and who does not withdraw his contributions made prior to April first, nineteen hundred sixty shall be eligible to retire on the date when the member would have otherwise been eligible to retire pursuant to subdivision d of this section had he continued in the service covered by this section, and shall receive a retirement allowance computed in accordance with the provisions of paragraph two of this subdivision.

2. (a) Such vested retirement allowance shall consist of a pension for creditable service prior to April first, nineteen hundred sixty which, together with an annuity, if any, which shall be the actuarial equivalent of his accumulated normal contributions attributable to the period prior to April first, nineteen hundred sixty and accumulated contributions paid to receive credit for military service as defined in subparagraph c of paragraph eight of subdivision a of this section, shall be sufficient to provide him with a retirement allowance equal to one-fortieth of his final average salary for each year of such service.

For the purpose only of determining the amount of such pension provided for in this subparagraph (a), the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of other than normal contributions, and if it were not reduced by reason of the legislative and executive member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old age and survivors insurance coverage.

(b) In addition, such vested retirement allowance shall include:

(1) an additional annuity which shall be the actuarial equivalent of his accumulated contributions other than those required pursuant to subparagraph a of paragraph two of this subdivision or made on and after April first, nineteen hundred sixty, to this retirement system, or to a local pension system in the case of a member who transfers his membership to this retirement system on and after such date pursuant to section forty-three of this chapter, and

(2) an additional pension of one-fortieth of such member's final average salary for each year of creditable service after April first, nineteen hundred sixty.

g. 1. Any legislative and executive member, who has vested rights under subdivision f of this section, who terminates his employment as lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature, and who obtains other employment in the service of the state, a political subdivision thereof or a public benefit corporation participating in this retirement system or maintaining a local pension system from or to which a person may transfer pursuant to section forty-three of this chapter, may elect to continue to be a legislative and executive member and be covered by, and make contributions in accordance with, the provisions of this section in the same manner as during his period of service as

lieutenant-governor, comptroller, attorney-general, a senator, an assemblyman or an annual or session employee of the legislature. In such case, notwithstanding the provisions of item (2) of subparagraph (b) of paragraph two of subdivision d, and item (2) of subparagraph (b) of paragraph two of subdivision f, the additional pension earned under this subdivision g shall be computed by multiplying the member's final average salary for each such year of service by the service fraction applicable to the section of this chapter or local pension system which otherwise would have been applicable to such member.

2. Notwithstanding any general, special or local law, charter or code, any such member who makes the election provided in this subdivision shall not be eligible for membership in the local pension system maintained by the political subdivision or public benefit corporation by which he is employed.

3. Every political subdivision or public benefit corporation which employs any such member shall make contributions to this retirement system on behalf of such member equal to the amount of contributions otherwise required of the political subdivision or public benefit corporation by this retirement system in the case of a participating employer, or by the local pension system in the case of a non-participating employer. Such contributions shall be transferred to this retirement system at such times and in such manner as shall be prescribed by the comptroller.

h. 1. No member shall be eligible to retire under the provisions of subdivision d of this section unless he was a legislative and executive member and/or elected to be continued as a legislative and executive member pursuant to subdivision g of this section for at least three years immediately prior to his date of retirement, or was a senator or assemblyman for at least two years immediately prior to his date of retirement.

2. No member shall be eligible to retire under the provisions of subdivision f of this section unless he was a legislative and executive member and/or elected to be continued as a legislative and executive member pursuant to subdivision g of this section for at least three years immediately prior to his discontinuance of service or was a senator or assemblyman for at least two years immediately prior to his discontinuance of service.

i. Whenever any death benefit, based upon eligibility for retirement, is granted by any other provision of this chapter or any other law, any legislative and executive plan member shall be considered to have been eligible to retire after the completion of twenty years of creditable service as defined in this section, including five years as a legislative and executive member, notwithstanding any other requirement contained in this section respecting minimum age for retirement.

j. The provisions of this section shall be controlling notwithstanding any provision of this chapter to the contrary.

Added L.1968, c. 219, § 2, eff. April 11, 1968, retroactive to April 1, 1968; amended L.1968, c. 1090, §§ 1-7, eff. June 22, 1968, retroactive to April 1, 1968.

§ 3A.01 LEGISLATORS RETIREMENT

Subd. 3. Member of the legislature. "Member of the legislature" means a member of the house of representatives or the senate of the state of Minnesota who has subscribed to the oath of office.

Subd. 4. Retirement. "Retirement" means ceasing to be a member of the legislature for any reason, including, but not limited to, expiration of the term for which a member of the legislature was elected, or death of such member.

3A.02 Retirement allowance

Subdivision 1. Qualifications. Any member of the legislature:

(1) Who has served at least ten years as such member of the legislature, which service need not be continuous, but must have been after January 1, 1965 except as hereinafter provided; and

(2) Who attains the age of 65 years; and

(3) Who has retired as a member of the legislature; and

(4) Who has made all contributions provided for in sections 3A.01 to 3A.10, or who has made payments in lieu of all contributions provided for in sections 3A.01 to 3A.10 as provided for in subdivision 2; shall be entitled upon written application to the state auditor to receive a retirement allowance of \$100 per month beginning with the first day of the month following receipt of such application and for the remainder of his life, provided he is not serving as a member of the legislature.

In addition to the amount provided above, the retired member who meets the qualifications of paragraphs (1), (2), (3) and (4) of this subdivision shall receive \$4 per month for every year of service over 10 years, but in no event shall the allowance exceed \$200 per month.

Subd. 2. Payment for past service. Any member of the legislature who is a member on July 1, 1965, may, notwithstanding the provisions of subdivision 1, clause (1), receive credit for service rendered as a member of the legislature prior to July 1, 1965, and the pension based thereon provided that he pays to the state treasurer for credit to his account an amount equal to seven percent of all salary received by him for all periods of service rendered by him as a member of the legislature, even if such periods are not continuous and exceed ten years in duration. Such payment may be made at any time within six months after July 1, 1965.

Subd. 3. Appropriation. The amounts required for payment of retirement allowances provided by this section are appropriated annually to the state auditor from the general revenue fund in the state treasury and shall be paid by him monthly to the recipients entitled thereto, in the manner in which retirement allowances are paid to qualifying retired judges of the supreme court and the district court. Laws 1965, c. 896, § 2, eff. July 1, 1965.

3A.03 Contributions

Subdivision 1. Percentage. Every member of the legislature shall contribute seven percent of his total salary.

CHAPTER 3A. LEGISLATORS RETIREMENT

Supplemental retirement fund, see §
11.18 et seq.

3A.02 Retirement allowance

Subdivision 1. Qualifications. Any member of the legislature:

(1) Who has served at least eight years as such member of the legislature, which service need not be continuous, but must have been after January 1, 1965 except as hereinafter provided; and

(2) Who attains the age of 65 years; and

(3) Who has retired as a member of the legislature; and

(4) Who has made all contributions provided for in sections 3A.01 to 3A.10, or who has made payments in lieu of all contributions provided for in sections 3A.01 to 3A.10 as provided for in subdivision 2; shall be entitled upon written application to the state auditor to receive a retirement allowance monthly of 40 percent of his average monthly salary during the period of his service as a member of the legislature since January 1, 1965, beginning with the first day of the month following receipt of such application and for the remainder of his life, provided he is not serving as a member of the legislature or as a constitutional officer or commissioner.

In addition to the amount provided above, the retired member who meets the qualifications of paragraphs (1), (2), (3) and (4) of this subdivision shall receive for every year of service over 8 years a monthly allowance which equals two percent of the average monthly salary determined pursuant to paragraph (4).

Subd. 1a. Retirement before age 65. A member of the legislature who meets the requirements of clauses (1), (3), and (4) of section 3A.02, subdivision 1, may elect to receive a retirement allowance after reaching the age of 60 and before reaching the age of 65 by making application therefor to the state auditor. A retirement allowance to a member of the legislature in accordance with this subdivision shall be discounted at the rate of one-half of one percent per month for each month below the age of 65.

Subd. 2. Payment for past service. Any member of the legislature who is a member on July 1, 1965 or thereafter, may, notwithstanding the provisions of subdivision 1, clause (1), receive credit for service rendered as a member of the legislature prior to July 1, 1965, and the pension based thereon provided that he pays to the state treasurer for credit to his account an amount equal to seven percent of all salary received by him for all periods of service rendered by him as a member of the legislature, even if such periods are not continuous and exceed ten years in duration. Such payment may be made at any time within six months after July 1, 1967, except as hereinafter provided. A member of the legislature on July 1, 1965, or a member thereof on July 1, 1967, may make such payment within such six month period. A member of the legislature who qualifies as a member thereof subsequent to July 1, 1967, may make such payment within six months after the date of such qualification. A member of the legislature who has been a member for four regular sessions or more may make such payment within six months after the commencement of the 1969 regular session.

Subd. 3. Appropriation. The amounts required for payment of retirement allowances provided by this section are appropriated annually to the state auditor from the general fund in the state treasury and shall be paid by him monthly to the recipients entitled thereto, in the manner in which retirement allowances are paid to qualifying retired judges of the supreme court and the district court.

Amended by Laws 1967, c. 877, §§ 1, 2, eff. May 26, 1967; Laws 1969, c. 153, § 1, eff. April 19, 1969; Laws 1969, c. 399, § 1, eff. July 1, 1969; Laws 1969, c. 1115, § 1, eff. June 7, 1969.